IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

WP(C).No. 19338 of 2007(B)

PETITIONER:

MOHAMMED HANEEFA, CHOOLACKAL HOUSE,
KACHINIKKAD, MANAKKARA PARAMBA POST,
MALAPPURAM DISTRICT.

BY ADV. SRI.V.V.SURESH

RESPONDENTS:

---

1. STATE OF KERALA - REP.BY CHIEF SECRETARY
THIRUVANANTHAPURAM.

2. THE BRANCH MANAGER,
KERALA STATE FINANCIAL CORPORATION,
BRANCH OFFICE, MALIYEKAL BUILDING,
MANJERI ROAD UPHILL, MALAPPURAM - 676505.

3. THE REGIONAL TRANSPORT OFFICER,
MALAPPURAM.

4. THE MANAGER,
NATIONAL INSURANCE COMPANY LTD,
MANJERI, MALAPPURAM.

R2 BY ADV. SRI.T.V.GEORGE, SC, KFC
R1&3 BY G.P. SMT.N.SUDHADEVI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

.....

W.P.(C) No.19338 of 2007

.....

Dated this the 16th day of July, 2007.

JUDGMENT

The petitioner availed loan from KFC for purchase of a vehicle. However, business failed and therefore, KFC sold the vehicle in recovery proceedings. Now collateral security is proceeded against for recovery of balance arrears against which W.P. is filed. The argument raised by the petitioner is financial difficulty which is not a ground to interfere with recovery proceedings. However, since the business failed and substantial amount is paid, I feel respondents should grant OTS benefit to the petitioner completely waiving penal interest and default interest provided petitioner clears arrears within a reasonable time. If any reduction in interest is granted in similar cases, petitioner should be granted the same also. The W.P. is accordingly disposed of directing the petitioner to deposit 10% of the arrears within two months from now and if 10% is paid, there will be direction to the KFC to grant OTS benefit and grant reasonable time to the petitioner to clear the arrears. If petitioner commits default in payment of 10% or fails to make payment in terms of the OTS demand, then respondents can withdraw the OTS benefit and proceed for recovery.

C.N.RAMACHANDRAN NAIR
Judge

pms